

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/043,888

First named Inventor: Jonas L. Steinman

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Commissioner of Patents

P.O. Box 1450

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**PRE-APPEAL REQUEST FOR REVIEW**

Sir:

Review of the final rejection in the above-identified application is requested. No amendments are being filed with this request. The review is requested for the reasons stated on the attached sheets.

This request is being filed with a Notice of Appeal.

If there are any additional fees due in connection with this communication, please charge Deposit Account No. 19-3140.

Respectfully submitted,  
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Dated: June 30, 2009

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## STATEMENT IN SUPPORT OF PRE-APPEAL REQUEST FOR REVIEW

### 1. STATUS OF CLAIMS

Claims 10, 13, 20, 22, 23, 56, and 57 are presently pending, have been finally rejected, and are the subject of this Pre-Appeal Request for Review.

### 2. GROUNDS OF REJECTIONS TO BE REVIEWED

Claims 10, 13, 20, 22-23, 56, and 57 stand rejected as being unpatentable under 35 U.S.C. § 103(a) over Fredrickson et al., (U. S. Patent Publication No.: 2002/0019768, hereinafter “Fredrickson”) in view of Goldhaber (U. S. Patent No.: 5,794,210, hereinafter “Goldhaber”).

### 3. ARGUMENT

The rejections set forth in the Final Office Action are clearly erroneous.

The combination of Fredrickson and Goldhaber fail to render claim 10 obvious at least because it fails to teach or suggest serving, for a fixed time period, a fourth Web page requesting confirmation of a viewing by a user of at least one of said brand component, said small form of said advertisement, and said large form of said advertisement.

Fredrickson is directed to a “method and system for managing the placement and evaluation of advertisements.” *Fredrickson*, para. [0048]. Fredrickson enables a user to order a new ad and select or modify various features of a new ad such as ad placement venue and format. *Id.*, paras. [0055] and [0056].

To place a new ad, a user completes an advertisement ordering process as shown in Figure 8. *Id.* Upon completion of the ordering process, the user receives a confirmation of the ad ordered. *Id.*, para. [00121].

The Order Confirmation page, shown in FIGS. 24 and 25, confirms the order.

This page shows the format of the advertisement chosen, the text that is to appear in the advertisement, what publication it will appear in, and the dates it will appear. The Order Confirmation page will also give the user a confirmation number. The confirmation number is essential in assuring that the order has been placed and confirmed. *Id.*

Thus, the confirmation page of Fredrickson does not confirm that a user viewed an advertisement and instead serves to confirm the ordering of an advertisement by a user. The inclusion of the format and text of the ad in the confirmation page merely serves to confirm the format and text of ad that has been ordered and is clearly not an ad directed to the user.

In the Final Office Action Examiner states that “Goldhaber was relied upon to show that Fredrickson’s separate confirmation page can have an attention test to confirm that the user saw the priorly presented advertising.” Final Office Action, page 10. However, the inclusion of an attention test in the confirmation page of Fredrickson as suggested by Examiner is inconsistent with its purpose, which is to confirm the nature of an ad that has been ordered by a user and not to confirm an ad that has been displayed to and viewed by the user. As the confirmation page of Fredrickson is not an advertisement, it would be illogical to include an attention test to determine whether a user viewed an advertisement in the confirmation page. Furthermore, such a confirmation is not necessary as the advertiser is not viewing advertisements – but ordering them.

Additionally, the fourth Web page of claim 1 is displayed for a fixed period of time. In the Final Office Action, Examiner notes that “while Goldhaber does not explicitly disclose that the attention test can be timed or presented for a fixed period of time...it is obvious, old and well known that quizzes or tests can be timed.” While this may be true, the order confirmation the of Fredrickson bears no resemblance to a test or quiz and as such Examiner’s notation that a test or quiz may be timed has no relevance to the confirmation page of Fredrickson. In fact, displaying an order confirmation page only for a fixed time presents significant disadvantages to a user as such a page displays information that the user may need over a time period greater than the fixed period of time allowed for the display of the fourth Web page of claim 1.

Thus, for at least the reasons presented above the combination of Fredrickson and Goldhaber whether considered alone, or in combination with one another, fail to teach or suggest each and every element of claim 10. Furthermore, there is no motivation to combine the separate confirmation page of Fredrickson with the attention test of Goldhaber to form the fourth Web page requesting confirmation of a viewing by a user of at least one of said brand component, said small form of said advertisement, and said large form of said advertisement as recited in claim 10. Therefore, claim 10 is patentable over Fredrickson in view of Goldhaber. Independent claims 22, 23, and 56 include language similar to independent claim 10 and are patentable over Fredrickson in view of Goldhaber for at least the same reasons as claim 10. Claims 13, 20, and

57 depend from independent claims 10, 22, 23, and 56 and are patentable over Fredrickson in view of Goldhaber at least by virtue of this dependency.